IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 19879 of 2004

Between:

Syed Kalisha Vali S/o. Nabi Saheb, aged about 35 years,

Occ: Milk Tester, Milk Society, Allur Village and post

Kothapatnam Mandal, Prakasam District.

..... PETITIONER

AND

1 The District Co-operative Officer Prakasam, Prakasam District.
2 Allur Vijaya Milk Cooperative Society Limited

rep. by its President, Allur, Kothapatnam Mandal
Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondent No.2 herein in threatening to remove the petitioner from service without there being any reason and not permitting the petitioner to sign in the attendance register and not paying the salary from September 2004 as illegal, arbitrary and unjust and consequently direct the respondent No.2 to permit the petitioner to sign in the attendance register and discharge his duties peacefully and to grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.VENKATESWARLU

Counsel for the Respondent No.1: GP FOR COOPERATION

The Court at the admission stage made the following:

ORDER:

The petitioner is working as a Milk Tester in the 2nd respondent Society since 1987. His services were regularized with effect from 31.03.1987. The grievance of the petitioner is that the 2nd respondent Society is threatening to terminate him from service, alleging that he committed some mistake in milk testing, and he was prevented from attending the duty, and the salary for the month of September, 2004 was also not paid.

2. The petitioner contends that he submitted a representation to the 2nd respondent on 12.10.2004, requesting to pay the salary for the month of September, 2004 and continue to pay the same, duly allowing him to sign in the attendance register. But no order has been passed by the 2nd respondent for payment of the salary and permit him to sign in the attendance register. The petitioner, therefore, approached this Court, through this writ petition, seeking to declare that the action of the 2nd respondent in threatening to remove the petitioner from service without there being any reason and not permitting him to sign in the attendance register, by refusing to pay the salary from September, 2004, as illegal, arbitrary and unjust, and to direct the 2nd respondent to permit him to sign the attendance register and to discharge his duties peacefully.

3. The 2nd respondent did not issue any order in writing mentioning the cause for which the petitioner is prevented from attending the duty. If there are any lapses on the part of the petitioner leading to misconduct, the 2nd respondent has every liberty to take appropriate action against the petitioner. But preventing the petitioner from attending the duty, is not the proper course of action, and if the 2nd respondent intends to take action, it would be appropriate if it were in

writing. Unless and until the 2nd respondent decides to take appropriate action against the petitioner in writing, for the lapses, if any, on the part of the petitioner, the 2nd respondent is not entitled to prevent the petitioner from discharging his duties.

4. In the light of the above circumstances, the

2nd respondent is directed to avail the services of the petitioner, pay the salary from September, 2004, if it is already not paid, and continue to pay the salary which he used to get previously. The 2nd respondent, if so desires, may take appropriate action against the petitioner for the lapses, if any, on his part leading to misconduct.

5. The Writ Petition is, accordingly, disposed of. No costs.

dsr

ASSISTANT REGISTRAR

To:

1. The District Cooperative Officer,

Prakasam, Prakasam District

2. The President, Allur Vijaya Milk

Cooperative Society Limited, Allur,

Kothapatnam Mandalam, Prakasam District

3. Two CCs to the Government Pleader for Cooperation,

High Court Buildings, Hyderabad (OUT)

4. Two CD copies.